

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Jay Emler at 10:30 a.m. on March 9, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator Carolyn McGinn - excused

Committee staff present:

Alan Conroy, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Estelle Montgomery, Kansas Legislative Research Department  
Dylan Dear, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Audrey Dunkel, Kansas Legislative Research Department  
Jonathan Tang, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor of Statutes  
Daniel Yoza, Office of the Revisor of Statutes  
Melinda Gaul, Chief of Staff  
Shirley Jepson, Committee Assistant

Conferees appearing before the Committee:

Barb Hinton, Legislative Post Auditor, Division of Legislative Post Audit  
Brad Williams, Director, Kan-Ed  
Chad Austin, Kansas Hospital Association  
Catherine Moyer, Director of Legal & Regulatory Affairs, Pioneer Companies  
John Federico, Kansas Cable Telecom Association  
Colleen Jennison, Cox Communications

Others attending:

See attached list.

**Subcommittee report on Governor, Lt Governor, Legislative Agencies**

Senator Emler, Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Governor, Lt. Governor, Legislature, Legislative Post Audit, Legislative Research Department, Revisor of Statutes and Legislative Coordinating Council for FY 2010 and moved for the adoption of the Subcommittee recommendation on the Governor, Lt. Governor, Legislature, Legislative Post Audit, Legislative Research Department, Revisor of Statutes and Legislative Coordinating Council for FY 2010 with notations and adjustments (Attachment 1). The motion was seconded by Senator Teichman. Motion carried on a voice vote.

**Subcommittee report on Department of Revenue**

Senator Schodorf, Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Department of Revenue for FY 2010 with notations and adjustments (Attachment 2).

Senator Teichman moved to amend the Subcommittee report on the Department of Revenue for FY 2010 by adding language to Item No. 4 and Item No. 6 "to request a review at Omnibus". The motion was seconded by Senator Schodorf. Motion carried on a voice vote.

Senator Schodorf moved for the adoption of the Subcommittee report on the Department of Revenue for FY 2010 as amended. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

**Subcommittee report on Court of Tax Appeals**

Senator Schmidt, Chair of the Subcommittee, presented the Subcommittee report on the Governor's budget recommendations for the Court of Tax Appeals for FY 2010 with notations and adjustments (Attachment 3).

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Senator Schmidt moved to amend the Subcommittee report on the Court of Tax Appeals for FY 2010 by adding language to Item No. 4 “to request a review at Omnibus”. The motion was seconded by Senator Lee. Motion carried on a voice vote.

Senator Schmidt moved for the adoption of the Subcommittee report on the Court of Tax Appeals for FY 2010 as amended. The motion was seconded by Senator Taddiken. Motion carried on a voice vote.

### **Hearing on HB 2265 - Post audit, financial compliance audits, new state treasurer transition audits, periodic audits of state treasurer and pooled money investment board financial management practices.**

Jill Wolters, Revisor of Statutes, explained that **HB 2265** would specify a three-year cycle when written audit reports must be prepared on the financial management practices of the State Treasurer’s Office and the Pooled Money Investment Board. Current law does not provide a timeframe, but the practice has been to produce such reports every year. Additionally, the bill would require a transition audit be conducted within two weeks of the date someone takes office as State Treasurer.

Barb Hinton, Division of Legislative Post Audit, presented testimony in support of **HB 2265** (Attachment 4). Ms. Hinton stated that significant financial-management areas of both agencies are viewed as part of the annual statewide financial audit. In addition, the annual performance audits are required at both agencies to review their financial-management practices. Ms. Hinton indicated that there are duplications between the two audits. Both of these audits are contracted out. It is felt that moving the financial management practices audit to a three-year cycle will not jeopardize the system and would save money for the state.

Responding to a question from the Committee concerning an audit with regard to the distribution of highway funds to counties and the discovery that some counties did not receive the correct distribution, Ms. Hinton explained that the audit was done by a outside contracted audit firm. The Committee stated that an outside audit firm would probably carry “Errors and Omissions” insurance and the state might want to pursue the matter. The Committee noted that the problem with the county distribution was created by the Department of Revenue and eventually uncovered by the State Treasurer’s Office. The Committee also expressed concern that the time between audits should be set at “every 2 years” instead of “every 3 years”.

There were no other conferees to come before the Committee.

**The hearing on HB 2265 was closed.**

Senator Kelly moved to recommend **HB 2265** favorable for passage. The motion was seconded by Senator Kultala.

Senator Wysong made a substitute motion to change the language in Section 1, Line 22, from “every three years” to “every two years”. The motion was seconded by Senator Teichman. The motion carried on a vote of 7-4.

The Committee noted that the Division of Legislative Post Audit has the authority to take action to preform an audit as any time.

Senator Taddiken moved to recommend **HB 2265** favorably for passage as amended. The motion was seconded by Senator Teichman. Motion carried on a voice vote.

### **Hearing on SB 285 - KAN-ED; funding.**

Audrey Dunkel, Legislative Research Department, explained that **SB 285** would amend the statute that provides funding for Kan-ed to authorize the continuation of the use of the Kansas Universal Service Fund (KUSF) for Kan-ed funding. Under current law, the use of the KUSF for the Kan-ed program would be discontinued in FY 2010.

Brad Williams, Chief Information Officer & Kan-ed Executive Director, Kansas Board of Regents, presented testimony in support of **SB 285** (Attachment 5). Mr. Williams stated that the Federal Universal Service Fund

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was established to assist with the expansion of broadband access to schools, libraries and health care. The Kansas Universal Service Fund mimics the federal regulations. The Governor appropriated \$10 million from KUSF to fund Kan-Ed in FY 2010; however, current law would require the \$10 million to come from the State General Fund (SGF). **SB 285** would replace the \$10.0 million from the State General Fund, with KUSF funding. Mr. Williams explained that the state will lose approximately \$3.3 million in direct federal funding benefits if Kan-ed is not funded.

Chad Austin, Vice-President, Government Relations, Kansas Hospital Association, provided testimony in support of **SB 285** (Attachment 6). Mr. Austin stated that hospitals of all sizes have effectively utilized many benefits from their participation in Kan-ed, receiving to date more than \$2.8 million in direct support. Mr. Austin noted that Kan-ed allows hospitals to assess services from other hospitals for their patients, eliminating the need on many instances to travel to other hospitals or other states for treatment.

Catherine Moyer, Director of Legal and Regulatory Affairs, Pioneer Communications, provided neutral testimony on **SB 285** (Attachment 7). Responding to a question from the Committee, Ms. Moyer stated that costs are determined by the range or length of the loop required where the member accessing the service is located.

John Federico, on behalf of the Kansas Cable Telecommunications Association, provided neutral testimony on **SB 285** (Attachment 8). Mr. Federico noted the Association's concern regarding policies adopted by the Kan-ed's administrator that could impede existing contracts between the Association's members. The Association further supports state-subsidized competition for providers of commercial internet services. Mr. Federico included a copy of a letter written by Reginald Robinson, President and CEO of the Board of Regents, to Senator Emler, addressing the concerns of private industry.

- Senator Emler stated that there is also a list of Kan-ed Authorized Program changes attached to the Robinson' letter, copies of which will be provided to the Committee.

Coleen Jennison, Director of Government Affairs, Cox Communications, presented neutral testimony on **SB 285** (Attachment 9). Ms. Jennison noted that if this source of funding is approved, they request a sunset date of no later than 2011 to be included in the legislation. This would allow for the continued examination of the needs of the program and provide for exploring alternative funding solutions.

There were no other conferees to appear before the Committee.

**The hearing on SB 285 was closed.**

### **Adjournment**

The next meeting is scheduled for March 10, 2009.

The meeting was adjourned at 12:05 p.m.